



Montoya, Darlene <[dmontoya@nmag.gov](mailto:dmontoya@nmag.gov)>

---

## Fwd: Aztec Police Department Use of Force Policy

3 messages

---

**Carrasco-Trujillo, Sonya** <[scarrasco-trujillo@nmag.gov](mailto:scarrasco-trujillo@nmag.gov)>  
To: "Montoya, Darlene" <[dmontoya@nmag.gov](mailto:dmontoya@nmag.gov)>

Wed, Dec 28, 2016 at 4:23 PM

Aztec PD

**//SIGNED//**

**Sonya S. Carrasco-Trujillo**  
**Chief of Staff for Policy and Public Affairs**  
**Office of the New Mexico Attorney General**  
**505-699-5988**

----- Forwarded message -----

From: **Heather Knibbs** <[knibbsh@aztecnm.gov](mailto:knibbsh@aztecnm.gov)>  
Date: Wed, Dec 28, 2016 at 4:20 PM  
Subject: Aztec Police Department Use of Force Policy  
To: [scarrasco-trujillo@nmag.gov](mailto:scarrasco-trujillo@nmag.gov)

Sonya,

Chief Heal asked me to send this information onto you. Attached is the Aztec Police Department's policy on Use of Force.

If you need anything else please feel free to contact me.

Sergeant Heather Knibbs

Aztec Police Department

Phone: **(505)334-7601**

Fax: **(505)334-7629**



---

 **111 Use of Force.docx**  
22K

---

**Montoya, Darlene** <dmontoya@nmag.gov>  
To: knibbsh@aztecnm.gov

Wed, Feb 1, 2017 at 1:57 PM

Ms. Knibbs:

I am in review of the items we have received from the different NM Law Enforcement Agencies. The LEAB Subcommittee would also like to know how often these SOPs for Use of Force and OIS are reviewed and/or revised, and how often your officers receive training.

Please let me know so I may attach the response to your SOPs.

[Quoted text hidden]

--

Darlene Montoya, Administrator  
New Mexico Attorney General's Office  
408 Galisteo Street  
Santa Fe, New Mexico 87501  
[\(505\) 490-4854](tel:5054904854)

---

 **111 Use of Force.docx**  
22K

---

**Heather Knibbs** <knibbsh@aztecnm.gov>  
To: "Montoya, Darlene" <dmontoya@nmag.gov>

Wed, Feb 1, 2017 at 2:25 PM

Darlene,

For every use of force incident the policy is reviewed to determine if it is within policy. The policy was revised approximately 6 months ago and is reviewed annually. Our officers receive training on the policy yearly.

Sergeant Heather Knibbs

Aztec Police Department

Phone: (505)334-7601

Fax: (505)334-7629



---

**From:** Montoya, Darlene [mailto:[dmontoya@nmag.gov](mailto:dmontoya@nmag.gov)]

**Sent:** Wednesday, February 01, 2017 1:57 PM

**To:** Heather Knibbs

[Quoted text hidden]

[Quoted text hidden]

NUMBER: 111	SUPERSEDES: 515	EFFECTIVE DATE: 09/06/2016	PAGE NO. 1 of 6
SUBJECT: Use of Force		APPROVED BY: Michael J Heal	
NMLEA STANDARDS: ADM.05.01 ADM.05.02 ADM.05.03 ADM.05.04			

**PURPOSE:** No two incidents are exactly alike; this policy cannot and does not specify in great detail every action that should be taken in each incident. An officer's response to resistance varies greatly depending on the circumstances and facts surrounding that incident. This policy is to provide personnel with guidance and the legal parameters in applying objectively reasonable force.

**POLICY:** It is the policy of the Aztec Police Department that officers are authorized to use force, both deadly and non-deadly, which is objectively reasonable to control a situation, effect an arrest, overcome resistance to arrest or to defend themselves or others from harm. The Aztec Police Department officers are authorized to exercise the use of force but in an objectively reasonable manner and in a way that does not violate the civil rights guaranteed by the Constitution, and all other applicable law.

## **PROCEDURE:**

### 1. Definitions

- a. Force- The use of physical power or violence to compel or restrain; with or without a weapon
- b. Control- Force which is used to seize, arrest, stop and/or avoid injury or death
- c. Resistance- Force used to oppose, defeat, attack and/or avoid arrest or apprehension
- d. Deadly Force- Any use of force that is likely to cause death or serious physical injury
- e. Non-Deadly Force- Any use of force, with or without a weapon, that is not reasonably expected to cause great bodily injury or death
- f. Objectively Reasonable Force- A legal standard which is used to determine the lawfulness of a use of force in regards to the Fourth Amendment of the U.S. Constitution. In determining the necessity of force or the amount of force that is appropriate, officers shall evaluate each incident with these in mind: the severity of the crime at the time the force is used, the level of resistance which is presented by the subject, the risk or apparent attempt by the subject to escape, and/or whether the subject was posing an immediate threat to the officer and/or others.
  - i. In *Graham v. Connor*, 490 U.S. 386 (1989); Graham states in part, "the force must be reasonable under the circumstances known to the officer at the time the force was used"
- g. Immediate Threat- An officer's reasonable belief of impending danger, death, or great bodily harm from any action or result of an action that may occur during an encounter. A subject may pose an immediate threat even if he or she is not pointing a weapon at an officer or another but has, for example, a weapon within reach and is running for cover carrying a weapon, or running for a place where the officer reasonably believes a weapon is available.

- h. Reasonable Belief- A belief, based on specific and articulable facts which, taken together with the rational conclusions from those facts, reasonably warrant an officer's actions
- i. Great Bodily Harm- Any injury which creates a high probability of death; or which causes serious disfigurement; or which results in permanent or protracted loss or impairment of the function of any member or organ of the body
- j. Force Tools- Any Aztec Police Department issued and/or approved non-deadly device. This may include, but is not limited to, conducted electrical weapons (Taser), oleoresin capsicum (OC), etc.
- k. Physical Technique- Any hand-to-hand technique used to control a subject. This includes, but is not limited to: grabbing, pulling, punching, pushing, kicking, etc.
- l. De-Escalation- A decrease in the amount of control used within an incident in response to a decrease in the amount of resistance posed by the subject
- m. Officer- All sworn Aztec Police Department personnel, regardless of rank, who are acting in their official capacity for the Aztec Police Department

## 2. General

- a. Whenever practical, officers will use commands (warnings, verbal communication) to gain compliance. Officer should allow for a reasonable opportunity for compliance from the subject(s) before resorting to force; unless in situations in which split-second decisions have to be made. In those situations officers should reasonably believe that issuing a command or warning would place the safety of themselves or others in danger.
  - i. When possible, officers should use sound judgment and tactics to prevent any unnecessary confrontation. This may include, but is not limited to: setting up a perimeter, request for back-up, utilize other agencies, etc.
- b. During the course of duty officers may be required to use force in any situation. In these situations officers will use only the amount of force that is objectively reasonable given the particular facts and circumstances perceived by the officer at the time of the incident to achieve legitimate lawful objectives.
  - i. The reasonableness of a particular use of force incident must be judged from the perspective of a reasonable officer on scene, rather than with 20/20 vision of hindsight.
    - 1. When evaluating reasonableness, consideration must be given to the fact that officers are often forced to make split-decisions based on limited information and in tense, uncertain, and rapidly evolving circumstances.
- c. Some incidents, not in any particular order, in which officers may need to use force are:
  - i. Effect an arrest or prevent the escape from custody of a subject whom the officer reasonably believes has committed an offense

- ii. To defend themselves or others from the use, attempted use or threat of physical force
  - iii. To control a situation and to overcome resistance to a lawful order
  - iv. To assist a licensed physician or psychologist in providing needed medical treatment
  - v. To prevent someone from committing suicide or inflicting great bodily harm upon themselves
  - vi. To neutralize an unlawful assault and defend themselves or others from harm
  - vii. To take subjects into protective custody when authorized by law, such as those who are a danger to themselves or others (pursuant to 43-1-10 NMSA 1978) and/or subjects incapacitated by alcohol (pursuant to 43-2-8 NMSA 1978)
- d. There are multiple factors to consider when determining the appropriate type and amount of force to use in an incident. These factors may include, but are not limited to:
- i. The severity of the crime at issue
  - ii. The level of threat or resistance presented by the subject
  - iii. The availability of other resources
  - iv. Officer vs. subject factors (size, strength, skill level, injury, number of officer vs. number of subjects)
  - v. Environmental factors
  - vi. Whether the subject was posing an immediate threat to the safety of the officer(s) or others
  - vii. The risk or apparent attempt by the subject to escape
  - viii. The training and experience of the officer
  - ix. Any foreseeable risk of secondary injuries
  - x. Any other relevant facts
- e. Law enforcement by nature is a dangerous occupation which requires personnel to put their lives at risk for both the safety of the victims and the citizens. The main goal is to protect lives and maintain safety; officers are not required to retreat from situations and are not required to be exposed to possible physical injury before force is applied.
- i. Force will be de-escalated immediately and proportionately as the subject's resistance decreases. The authorized use of force ends when the resistance ceases and/or the officer

has accomplished the purpose necessitating the use of force. There may be times when an officer must apply force to a mechanically restrained (ex. Handcuffed) individual; the

**APD 111 Use Of Force Page 4 of 6**

force must be objectively reasonable as consistent with this policy.

1. Force shall never be used to subject an individual to torture, and/or cruel, inhumane, or degrading treatment or punishment.

### 3. Deadly Force

- a. Deadly force may be used when the officer has a reasonable belief that his or her life, or that of another is in immediate danger of death or great bodily harm based on the totality of the circumstances known to the officer at the time that the force is used
- b. Firing a warning shot from a weapon is prohibited
- c. Deadly force may be used to prevent escape when the officer has probable cause to believe that the subject poses a significant threat of death or great bodily harm to the officer or other and a reasonable, non-deadly alternative for apprehension does not exist.
  - i. In these cases, when appropriate, a verbal warning of the use of force should be given by the officer
  - ii. The use of a deadly weapon cannot be used to seize an unarmed, non-dangerous fleeing felon or misdemeanor
- d. Officers may draw and point their firearm at a subject when there is an objectively reasonable determination that the situation may escalate to the point where deadly force would be authorized
  - i. As soon as it is determined that the use of deadly force is not reasonable, the officer will discontinue to point their firearm and may choose to reposition to a low ready or secure/holster their firearm
- e. Officers are trained to generally use their firearms to deploy deadly force, it is recognized that exigent circumstances may develop where it may not be effective, expedient enough, or possible to deploy a firearm.
  - i. In these circumstances where the use of deadly force is objectively reasonable, it will also be considered reasonable to apply that force by whatever means is necessary (such as the use of another weapon, tool, vehicle, or physical technique)
- f. Shotguns and Rifles
  - i. Due to its wide shot dispersion, the shotgun shall only be used when a possibility exists that the officer will be dealing with an armed subject, e.g., armed robbery in progress, searching for armed subjects, answering calls when the complaint has indicated that the subject is armed
  - ii. The Chief of Police may approve the use of shotguns or rifles on raids and stakeouts when they believe that a threat to human life exists
  - iii. Shotguns and rifles shall be encased/mounted and carried in patrol units when not

in preparation for use. When the shotgun is not encased/mounted, it shall be carried with the safety on at all times until there is an immediate need to fire the weapon

**APD 111 Use Of Force Page 5 of 6**

- iv. Shotguns and rifles shall be removed from vehicles before leaving them at any garage or service department
- v. During regular firearms qualification, each officer shall be required to demonstrate proficiency with the shotgun or rifles, if they are issued to the officer
- vi. The range officer or armor shall develop a shotgun and rifle maintenance schedule; the firearms shall be inspected according to a schedule
- vii. The general rules for the use of firearms above apply

**4. Firing Weapons At Or From A Moving Vehicle**

- a. Firing a weapon at a moving or fleeing vehicle is prohibited, except when
  - i. An occupant of the other vehicle is using, or threatening to use, deadly force by a means other than the vehicle
  - ii. A vehicle is operated in a manner deliberately to strike an officer or a citizen and all other reasonable means of defense have been exhausted (or are not present), including moving out of the path of a vehicle and the safety of innocent persons would not be unduly jeopardized by the officer's actions
  - iii. Officers shall not fire at or in the direction of a vehicle that no longer poses an immediate threat
- b. Officers should avoid tactics that could place them in a position where a vehicle could be used against them

**5. Force Tools**

- a. Consistent with the law and the Aztec Police Department's policy of using objectively reasonable force, a variety of force tools are issued to sworn personnel for use in those situations where a firearm or physical technique would not be considered a reasonable or safe option
- b. Intentional strikes with a force tool to the subject's head, neck, spine, or groin are prohibited unless the use of deadly force is reasonable. Also, neck restraints, chokeholds, or other similar weaponless control techniques are also prohibited unless the use of deadly force is reasonable

**6. Medical Assistance**

- a. Medical assistance will be given and/or obtained as soon as possible for subjects who have sustained injury, expressed any complaint of injury, been exposed to chemical sprays, are suspected of being unconscious or that the officer has reason to believe has been injured as a result of any use of force incident.
  - i. In the event that a subject is injured, officers have a duty and obligation to provide medical treatment as soon as reasonably possible while the subject is in custody

- ii. Officers are not required to render medical aid to injured subjects until a scene has been deemed safe by the officer
- iii. Medical assistance performed by officers should be to the extent that they are trained and equipped
- iv. Any injured subject will be treated with dignity and respect

**7. Duty to Intervene**

- a. All sworn Aztec Police Department officers, regardless of rank, have a duty to intervene on behalf of a citizen whose constitutional rights are being violated in their presence by another law enforcement officer(s). Sworn personnel present and observing a use of force that they believe is not reasonable, or is inconsistent with this policy will, when in a position to do so, intervene to prevent further use of the unreasonable force.
  - i. Such incidents will be immediately reported to the witnessing employee's supervisor and followed up with a memorandum; a formal investigation will be conducted in all such incidents involving Aztec Police Department employees

**8. Excessive Force**

- a. Officers who are found to have used excessive or unauthorized force shall be subject to discipline, possible criminal prosecution, and/or civil liability

**9. Reporting the Use of Force**

- a. All officer which are involved in any use of force incident shall prepare the appropriate department use of force form and document the event in the report narrative or supplement
- b. A supervisor will be immediately notified of any incident involving the use of force meeting the following criteria:
  - i. When the use of force results in death or injury
  - ii. When a citizen complains that an injury has been inflicted

**10. Department Response**

- a. When a police officer's use of force, or other actions, causes death or serious injury the officer is placed on administrative leave until it is determined by the Chief of Police or designee that the officer is ready to return to duty.
- b. The officer may undergo subsequent evaluations if behavior or performance indicates it would be in the best interest of the officer or the Department
- c. All administrative and criminal investigations will be conducted independently of each other